for Contempt DECISION

show cause why he should not be false charges or villification. adjudged guilty of contempt for having, as an attorney of record in the argue the evidence and the law and matter of the application of Peter Kair freely Indicate wherein he beneves for a Writ of Habeas Corpus filed in that decisions and rulings are wrong or this court a petition for rehearing in erroneous, but this he may do with which he made use of the following out effectually making bald accusastatement:

ing the power of the State to limit the teous or resorting to abuse which is hours of labor, on the ground of the not argument nor convincing to reapolice power of the State, are all soning minds. If respondent has no wrong, and written by men who have respect for the justices, he ought to mever performed manual labor, or by have enough regard for his position politicians and for politics. They do at the bar to refrain from attacting not know what they wrote about."

the citation, filed a brief and made an the Constitution and by general conextended address to the Court in sent have made the final interpreter which he took the position that the of the laws which ne, as an officer words in question were not contempt- of the court, has sworn to uphold ious; disavowed any intention to com- and protect. mit a contempt of court; and, further gized for its use and asked that the and intentional misconduct. so e he strice in from the petition.

ment it is proper to note that in the their proceedings is inherent and is briefs filed by Respondent upon the as old as courts are old. It is also hearing of the case in the first 'n stance, he used language of similar note the adjudications and penalties import which this court did not take imposed in a few of the many cases. cognizance of, attributing its are to and this court in sustaining the law

technic imigination of cunsel." Also, the case and its condition at ed the Governor's approval. At the time of filing the petition, respondent was aware that the court had viously sustained the validity of the enactment as limiting the hours of labor in underground mines, Re Boyce, 27 Nev. 327, 75 P. I., 65 L. R. A. 47, and in mills for the reduction of ores, Re Kair 28 Nev. 80 P. 461. and that similar statutes had been upheld by the Supreme Court of Utah and the Supreme Court of the United States in the cases of State v. Holden. 14 Utah 71 and 86, 46 P. 757 and 1105, 37 L. R. A. 103 and 108; Holden v Hardy 169 U. S. 366, 18 Sup. Ct. 383; Short v. Mining Company, 20 Ctah, 20, 57 P. 720, 45 L. T. A., 603 and by the Supreme Court of the State of Missouri re Cantwell, 179 Mo. 245, 78 S. W. 569. It may not be out of place here, also to note that the latter case has since been affirmed by the S preme Court of the United States, and more recently the latter tribunal, adhering to its opinion therein and in the Utah cases, has refused to interfere with the decisions of this Co

It would seem therefore, a natural and proper, if not a necessary deduction from the language in question. when taken in connection with the law of the cases as enunciated by this and other courts, that counsel, finding that the opinion of the highest court in the land was adverse instead of favorable to his contentions, in that it specifically affirmed the Utah decision in Horden vs. Hardy, which sustained the statute from which ours is copied, and that all the courts named were adverse to the views he advocated, had resorted to abuse of the Justices of this and other courts, and to imputa ens of their motives.

in re Kair.

The language quoted is tantameunt to the charge that this tribural and the Everence Courts of Utah, Missouri and of the United Strees and the Justices thereof who participated in the opini as upholding statutes limiting the hours of labor in mines, smelters and other are r duction works, were misgrided by igno ance or base poti cal considerations.

Taking the most charitable view. if counsel became so imbued and misguided by his own ideas and conclugions that he honestly and eroneously conceived that we were controlled by ignorance or sinister motives instead of by law and justice in determining constitutional or other questions, and that these other courts and judges and the members of the legislature and Governor were guilty of the accusation he made because they and we failed to follow the theories he advocated, and that his opinions ought to outweigh and turn the scale against the decisions of the four courts named including the highest in the land with nineteen justices concurring. nevertheless it was entirely inappro-

If he really believed or knew of facts to sustain the charge he made purpose of such a document is to enlighten the court in regard to the controlling facts and the law, and convince by argument, and not to abuse and vilify, and that this court hoth parties are before hand cought Justices. On the other hand if he made it with a cesire to mislead, in- which often reaches to the judge a Court in its secision, the statement judge therefore, ought to be patient that faking eit.e- view, whether re- but the momentary outbrook of dis-

IN THE SUPREME COURT OF THE his brief or argument is to assist to court in ascertaining the truth per taining to the pertinent facts, the rea In the matter of Alfred Chartz, Esq., effect of decisions and the law appli cable in the case, and he far overstep the bounds of professional conduc Respondent was commanded to when he reports to misrepresentation

He may rully present, discuss and tions against the motives and intelli-"In my opinion, the decisions favor- gence of the court, or being discourthe tribunal of which he is a mem-Respondent apeared in response to ber, and which the people, through

These duties are so plain that any that if the langauge was by the court departure from them by a member deemed to be objectionable, he apoli- of the bar would seem to be willful

The power of courts to punish for In considering the foregoins state- contempt and to maintain dignity in provided by statute. By analogy we

ord Cottingham imprisoned Edover zealousness upon the part of mund Lechmere Charlton a barrister counsel, but waich was of such a na- and member of the House of Comture that the Attorney General in his mons for sending a scandalous letter reply orief referred to a as insinuat- to one of the masters of the court, ing that the Legislature in enacting and a committee from that body, after an investigation, reported that in their were being "impelled or controlled by epinion his "claim to be discharged some mythical political influence or from imprisonment by reason of privifear., which exists only in the pyro- legde of parliament ought not to be

admitted." 2 Milne and Craig, 317. When the case of People vs. Tweed the time the objectionable language in New York came up a second time was used, should be taken into consid- before the same judge, before the trial eration. The proceeding, in which commenced, the prisoner's counsel prithis petition was filed, had been vately handed to the judge a letter. brought to test the constitutionality couched in respectful language, in of a section of an Act of the Legisla- which they stated, substantially, that ture limiting labor to eight nours per their client feared, from the circumday in smelters and other ore reduc- stances of the former trial, that the tion works, except in cases of emer-judge had conceived a prejudice gency where life or property is in against him, and that his mind was imminant danger. Stat. 1903, p. 33, not in the unbiased condition neces-This Act had passed the Legislature sary to afford an impartial trial, and almost unanimously and had receiv- respectfully requested him to consider whether he should not relinquish the duty of presiding at the trial to some other judge, at the same time declaring that no personal disrespect was intended toward the judge of the court. The judge retained the letter and went on with the trial. At the erd of the trial e sentenced three of the writers to a fine of \$250 each, and publically reprimanded the others, the junior counsel, at the time exprossing the opinion that if such a thing had been cone by them in Eng- cath to faithfully discharge the duland, they would have been "expelled from the bar within one hour." counsel at the time protested that intended to express no disrest said: pect for the judge but that their ac- . If unfortunately corneal in any den had been taken in furtherance of case shall ever so far forget him ein client and the faithful and conscirations discharge of their duty

> fines. 11 Albany Law Journal 498, 26 Am. R. 752. For sending to a district indge out of court a letter stating that "The ruling you have made is directly conevery body anows ... I believe, and it shall stand unreversed in any court, we practice in," an attorney was fine. the amount should be baid. In delivering the opinion of the Supreme Court of Kansas in Re Prior, 18 Kan. 26 Am., 747, Brewer J., said:

'Upon this we remark, in to first is very insufting. To say to a judge ing see bribes resist in remaining that a certain ruing which he has aw an that everylody - now

fuel and communications to a judge He is an officer of the court, and it is therefore his duty to uphold its honor and dignity. The independence of the profession carries with it the right demn all matters and things under review and in evidence. Ust with this privilege goes the corresponding obligation of constant courtesy and resnect toward the tribunal in which the proceedings are pending. And the fact that the tribunal is an inferior one, and its rulings not final and without appeal, does not oliminish in the slightest degree this obligation of courtesy and respect. A justice of the peace before whom the most trif- his offenses." ling matter is being litigated is entitled to receive from every attorney in the case corteous and respectful treatment. A failure to extend this priate to make the statement in brief, courtesy and respectful treatment is a failure of duty; and it may be en gross a dereliction as to warrant the he ought to have been aware that the exercise of the power to punish for suposed to be in conflict with the lib-

contempt. It is so that in every case where a judge decides for one party, he decides against another; and oftimes is not endowed with power to hear confident and sanguine. The disapor determine charges impeaching its pointment, therefore, is great, and it is not in human nature that there did not believe the accusation and should be other than bitter feeling timidate or swerve from duty the the cause of the supposed wrong. would be the more censurable. So and tolerate everything that appeare spondent believed or disbelieved the annointment. A second thought wi' einous charge he made such lan- generally make a party ashamed c guade is unwarranted and contemp- such an outbreak. So an attorney

pendence, may become want to une ntemptuous, angry or insulting ressions at every adverse ruling up of i it become the court's clear ducy check the hand by the severe lesin of a punisament for contempt The single insulting expression for uch the court punishes mer there are seem to those knowing nothing of he prior conduct of the attorney, and. looking only at the single remark, a after which might well be unnotice ed; and yet if all the conduct of the ltorney was known, the duty of inference and punis ment might be

We remark finally, that while from he very nature of things the nower on't of a court to punish for contempt is vast power, and one which, in the the hands of a corrupt or unworthy judge | manner in may be used tyrannically and univers in his int ly, yet protection to individuals for may be bor the publicity of all judicial proeedings, and the appeal which may talle into e made to the legislature for proproceedings against any judge who proves himself unworthy of the power | course of

intrusted to him." Where a contention arose between counsel as to whether a witness had not aiready answered a certain quest him to act as an officer and attorney. tion, and the court after hearing the reporter's notes read, decided that she had answered it, whereupon one and, turning to the court, sad, in a 1 14 tone and insulting manner: She has not answered the question" hold that the attorney was guilty of contempt regardless of the question vaether the decision of e court was right or wrong." Russell v. Circuit

In Sears v. Starbird, 75 Cal. 91, 7 Am. St. 123, a brief reflecting upon the trial judge was stricken from the record in the Supreme Court, because contained the following:

ige, 67 Iowa, 102,

"The court, out or a fullness of his love for a cause, the parties to it or their counsel, or from an overzealous desire to adjudicate all matters, points arguments and things,' could not, with any degree of propriety under the law. patch and doctor up the cause of the plain ffs, whic... perhaps, the careteseness of their counsel had left in such a condition as to entitle them to no relief whatever." In reference to this language it was

said in the opinion: ", ere is a \_\_\_\_ net infimation that the judge of ...e court below did not act from proper motives, but from a love of the parties or their counsel We see nothing in the record which suggests that such was the case. On the contrary, e action complained of seems to us to have been entire's proper: See Sil v. Reese, 47 Cal. 340 The brief, therefore contains a groun. less c arge against the purity of motive of the judge of the court below This we regard as a grave breach of professional propriety. Every person on his admission to the bar takes an ties of an attorney and counceler Surely suc., a course as was taken in this case is not in compliance w. intended no contempt of that duty, in Friedlander v. summer and that they felt and G. & S. M. Co., 61 cal, 117. The court

what they deemed as v. al interests as willfully to employ language manifestly disrespectful to the judge of the superior court-a thing not to be anticipated-we shall deem it cur dury The judge accepted the discislmer of to treat such conduct as a contempt of personal disrespect, but refused to believe the disclaimer of intention to this court, and to proceed accordingcommit a contempt and enforced the ly; and the briefs of the case were ordered to be stricken from the files."

In U. S. v. Late Corporation of Church of Jesus Cheist of Later Day Saints, language used in the petition filed in effect accusing the court of trary to every principal of law, and an attempt to shield its receiver and his attorneys from an investigation is our desire that no such decision of charges of gross misconduct in office and containing the statement that "We must decline to assume the \$50 and suspended from practice until functions of a grand jury, or attempt to perform the duty of the court in investigating the conduct of its officers, "was held to be contemptuous. 211 P. 5 3.

In re Ferry, 36 Fed. 419 an extreme blace that the language of this letter case, for charging the court with har from the court room by the marshau made is contrary to every principle o. acting tuder an order from the bench and using agustve language, one of certainly a most severe imputation the defendants was sent to jail f We remark, secondly, that an attor- thirty days and the other for six ney is under special obligations to be months. Judge erry, who had not considerate and respectful in his con- | made any accusation against the court sought release and to be purgof the contempt by a sworn poth ion in which he elleged that in transaction he did not have the slight est idea of showing any disrespect to freely to challenge, criticise and con-, the court. It was held that this could not evail or relieve him and it was

sald. "The law imputes an intent to ac complish the natural result of che's acts, and, when these acts are of criminal nature, it will not accent, against such implication the denial of the transgressor. No one would be safe if a denial or a wrongful or crimiviolator from the punishment day in

In an application for a writ of ba beas corpus growing out of that case. Justice Harlan, speaking for the Su-1 preme court of the United States or "We have seen that it is a settled lectrine in the jurisprudence both of England and of this country, never erty of the citizens, that for direct contempt committed in the face of the court, at least one of superior jurisdiction, the offender may in its trial or issue, and without other proof han its actual knowledge of what occurred; and that according to an unproken chain of authorices, reaching ack to the earliest times, such newand liable to abuse, is absolutely essential to the protection of the the files. ou ts in the discharge of their funcions. Without it udciial tribunals tious. The cuty of an attorney in cometimes, thinking it a mark of in- derly and violent, who respect neither

per. the art. and, exta, must be un berg be part of the

e the disaverer n contame - m reaph in that

section he tho ch he conducts himself to the beacourte, He and capable, and yet as to continthe t stress of the the practices; or he courts in amatic and continuous mp met render it impossible for " as to preserve their " the respect of the self republic or for which an attorney contumaciously the same time permit - 'hus a'ndiously and An attorno transite to bring the system of ice into miblic contribuna's of the attorneys sprang to his feet, tempt is an unfit person to hold the position and a problem to privileges of note to re Cary. 10 Fed. 63z, and in an officer of these tribunals. An open 1 Cyc. r. 20, where it is said that notorious on' public insuit to the highest tude of tribunal of the State setting in pleadings, briefs, motions for which a storne and unaciously a guments, petitions for rehearing or refuses in a way to stone, may just other papers filed in court insulting

> its officers." In ro from 39 Vt. 969, the remondent - Anot for immigatly stat- contempt which no construction of ing to " in 're of the peace, "I think this reported to the wigner than the Suprome court " stednetd C. J., said: Dect to the court may pallinte

"The general must submit in a justice court as we'l as in this court, any explanation cannot be construed and with the same formal respect. however difficult, it may be either teligence and motives of the court. iora er thera "

any alternative left him but the sub- ntimidate or improperly influence our mission to what he no doubt regards decision. on the part of the justice and of this been severely punished for using he court. And in that respect he is in a guage in many instances not so rehave failed to convince others of the vowal in open court we have conclud-

In Mahoney v. State, 7" N. E. 151, an atterner was fined \$50 for saying I am going to be heard in this case in the interests of any chent or not. and making other insolent statements. In Redman v State 98 Ind., the judge informed counsel that a question was improper and the attorney replied: If we cannot examine our witnesses he can stand aside." This language was deemed offensive and the court prohibited that particular attorney from examining the next witness.

In Brown v. Brown IV Ind. 727, the lowers was taxed with the cost of the action for filing and reading a petition for divorce which was unnecessarily gross and indelicate

In McCormick v. Sheridan 20 P 24. 78. Cal. "A notition for rehearing commission should have so effectually and substantially ignored an' dispecould have fallen under the commiscioners elservation. A more disinthe evidence could not well be made. be a traversity of the evidence." Held out of his petition. guilty of contempt committee in the said that he had no intention to be Co School Fund. Dist. 1 ... . 388 95 face of the court, notwithstanding a disrespectful or contemptacus, but he disrespectful intention. disrespectful or contemptacus, but he co. School fund, Dist. 2........30 70

remative of serving in jail.

"if it was the general habit of the and just bride of reputation would tel dove main upon the nench, and such only Therefore, I concur in the constn. law as were insensible to detamation and contount. But hannily for the Wit: good order of society, men, an especabide the decisions of the tribunals warned and that he pay the costs of ordained by government as the come this proceeding. mon arbiters of their rights, But where isolated individuals, in violation of the better instincts of human nature, and disregardful of law and order, wontanly attempt to obstruct garding and exciting disrespect for the decisions of its tribuna 3, every al intent would suffice to realese the good citizen will point them out as 

A court must naturally look first to an enlightened and conservative bar. governed by a high sense of profest Premiums ..... 2,129,749 Ci sional ethics and deeply sensible, as Other sources ......... 20.476 to they always are of its necessity to Total income, 1905 ....... 2.160,226 ... gid in the maintenance of public respect for its opinions."

In Sowers v. Torrey, 5 Faige Ch. 64 Dividends ...... 28 Am. D. 411, it was held that the at- Other expenditures ... terneyw ho put his hand to scandalous Total expenditures, 1905 2,123,536 45 and impertinent matter stood against the comparant and one not a party Risks written ...... discretion, be instantly apprehended to the suit is liable to the censure of Premiums ...... 2 627 975 and immediately imprisoned, without the court and chargeable with the Losses incurred ...... 1,009,644 S1 cost of the proceedings to have it expunged from the record.

In State v. Graithe, 1 La. Am. 183. the court held that it could not con- Lessos paid ..... sistently with its duty receive a brief Losses incurred ..... er, alteough arb.trary in its nature expressed in disrespectful language. and ordered the clerk to take it from

"This great power is entrusted to of February.

in of their respect-. 'uriol to which isted to a ear . Pur learn catend, y cases of nariv viot Tool and to tablished by the experience of ages."

sen, 18 pr on Kent ( J is

to a mariful to

"Language may be contemptuous, and if in not resential before punishment, and timestr for can sleep and setting matter in a - no to enginatent to the commission in open court of an conferent, when he langue equable of evulana tion, and is x; and, the proceedings must be and nued: but where it s offensive and leculting nor se, the issuemat a en intention to commit a contempt may tend to excuse, but annot just fy the act. From an open, noto icus and public insult to a court

fined for contempt, and his authority o practice revoked " Other authorities in line with these we have mentioned are cited in the contempt may be committed by intify the remain of that tribunal to or contemptuous language, reflecting

refused in any way to atone, he was

recognize " in the future as one of on the integrity of the court. By using he objectionable language stated respondent became guilty of a he wo ds can excuse or purge. His tisclaimer of an in entional disresconnet instify a charge which under therwise than as reflecting on the inand which could scarcely have been "We do no see that the relator has made for any other purpose unless to

as a misannychension of the law, both As we have seen, attorneys have condition were similar to many who rebensible, but in view of the discsoundness of their own views, or to ed not to impose a penalty so harsh became convinced themselves of their as disbarment or suspension from practice, or fine or imprisonment.

Nor do we forget that an prescribit g against the misconditor of all macys "I want to see whether the court is litigants ought not to be punished or right or tot I want to know whether prevented from maintaining in the case all petitions, pleadings, and papers essential to the preservation and erforcement of their rights.

> respondent stand reprimanded and warned, and that he pay the costs of this proceeding.

Tablet, J. Iconeur Norcross, J.

pecial to this extent stated that how or way the honorable; and on which the contempt proceeding was based, was, in my opinion, garded the uncontradicted tactiment, course, should not have been used. we do not know. It seems that not. The respondent mowever, in response cause why he should not be nunished therefor, appeared and disclaimed companiences; and moves that if the Agl Assn. Bond Fund, Series ranted. The decision seems to us to ucus, the said language by stricken Agl. Assn. Bond Fund, Series

Respondent not only contended and A fine of \$200 was imposed with an alhe admitted naving used was not dis-The Chief Justice speaking for the respectful or contemptuous. In the State School fund, Dist, 1. 2605 00 ecore in State v. Morrill, 16 Ark, 210 last c. Tention, I think he was plain. State school fund, Dist 2...,160 00 ly in error.

commuter to denounce, degrade, and this kind is indeed an uncleasant one

would become one ministers of the sion reached and in the order stated the opinion of Justice Taibot, to-

fally the people of this country, are litten be stricken from the files, that respondent stand represent and respondent stand reprimanded and

Fitzgerold C J 

ANNUAL STATEMENT

Of Hammond Indiana. General office, Chicago, lills Cepital (paid up) .....\$ Liabilities, exclusive of capi-

Income Expenditures Lesses ..... 16.500 06 1.113.131 64 Business 1905

Nevada Business Risks written ..... Premiums received ..... 20.025 56 8514 ... R 621 5. A. A. SMITH, secretary.

-500 The Sierra Nevada mining company Referring to the rights of courts to received \$2,722.67 from leasers operwould be at the mercy of the disor- State v. Tinton, 1 Blackf. 106, said: ating on Cedar Hill during the month

with it the sup- SPECIAL EXCURSION FROM SAM FRANCISCO TO CITY OF MEXICO AND RETURN. DECEMBER 16th,

A select party is being organized Ly the Southern Pacific to leave Sau Francisco for Mexico City, December 16th, 1905. Train will contain fine vestibule sleepers and dining car, all results I with 59%, the way on going trip. Time limit At page and seks on Attorneys, will be sixty days, enabling excursionists to make side trips from City of Mexico to points of interest. On return trip, stopovers will be allowed at points on the main lines of Mexican Central, Santa Fe or Southern Pacinc. An excursion manager will be in charge and make all arrangements.

Round trip rate from San Francisco Pullman berth rate to City of Mex-

ico, \$12.00. For further information address 'uformation Bureau, 613 Market street,

> EVO-Liberal Offer.

San Francisco Cal.

I beg to advise my patrons that the price of disc records (either Victor or Columbia), to take effect immediately, will be as follows until further notice:

Ten inch disks formerly 70 cents will be sold for 60 cents.

Seven inch records formerly 50c, now 35c. Take advantage of this of-C. W. FRIEND. fer. 

Notice to Hurtetrs.

Notice is hereby given that any person found hunting without a permit on the premises owned by Theodore vinters, whi be prosecuted. A linited number of permits vill be sold at \$5 for the season or 50 cents for one day.

OFFICE COUNTY AUDITOR To the Honorable, the Board of Cours, ty Commissioners, Gentlemen:

In compliance with the law, a herewith submit my quarterly report showing receipts and disburse. . ments of Orms'y County, during the quarter ca..... Dec. 30, 1905.

Quarterly Report. Ormsby County, Nevada. Receipts.

Balane in County Treasury at end of last quarter....\$40023 369 Fee of Co. officers......531 46 Rent of county bidg ........ 250 0, 1st, instalment taxes ..... 14924 2176 Slot machine license ...... 282 00 Semi-Annual Set. State Trens 531 78 

> 61,077 36% Total Disbursements.

State School Fund, dist 2 ... 120 00 The duty of courts in matters of State School fund, Dist 4 ... 165 00 21,968 59% Total Re pitulation. Cash in Treasury October 1905

"It is ordered that the offereign not. Receipts from Oct. 1st to Dec 30, 1995 .....21054 **90**% Disbursements from Oct. 1st to Dec 20, 1905 ......21968 5914 Balonce cash in County Treas. January 1, 1906 ...... 79108 779s

H. DIETERICH, County Auditor Recapitulation

General fund ........ 6017 031 Co. Schood Dist. 1, fund. .7638 2214 tal and net surplus . . 1.157.641 10 Co. School Dist. 2 famil. . . . . 139 64 Co. School Dist. 2, fund .... 190 2615 Co. School Dist. 3, fand. . . . . 425 55 State School Dist. I, fund. . . 1608 06 State School Dist. 2, fund......77 51 State School Dist. 2, fund. . 371 39 State School Dist. 3, fund. . . 371 3 State School Dist 4, fund. . . . . 19 27 Agl. Assn. Fund A........... 680 82 14 Agl. Assn Fund Special. 1918 94 Co. School Dist. fund - special 

Co. School Dist. fund 1, library Co School Dist, fund 3, library

Co. School Dist fund 4, library ...... 6 1n Tetal 3'-108 77%

H. B. VAN RITEN Gounty Treasurer